

O. C. WELCH

IBLA 73-165

Decided June 14, 1973

Appeal from decision of Colorado State Office requiring lease offeror to consent to certain special stipulations imposed by the Forest Service as a condition to issuance of an oil and gas lease on acquired lands. (C 16661 Acq.)

Affirmed.

Oil and Gas Leases: Acquired Lands Leases--Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Consent of Agency

An applicant for an acquired lands oil and gas lease must execute any special stipulations required by the agency administering the land as a condition precedent to the issuance of the lease, even though the Bureau of Land Management failed to indicate in its notice to the public regarding a simultaneous oil and gas lease drawing that the land for which the application was filed was subject to such stipulations.

APPEARANCES: O. C. Welch, pro se.

OPINION BY MR. STUEBING

O. C. Welch appeals from a decision of the Colorado State Office issued October 16, 1972, requiring his consent to stipulations imposed by the Forest Service, United States Department of Agriculture, before a noncompetitive oil and gas lease would be issued to him for acquired lands within the San Isabel National Forest.

In its notice to the public concerning the simultaneous filings for oil and gas leases which was held on July 17, 1972, through July 24, 1972, the Bureau of Land Management specified the following information:

Each parcel on this list which lies partly or entirely within a National Forest or under the jurisdiction of

the Dept. of Agriculture has been marked with an asterisk (\*). Form 3103-2 and supplemental stipulations, (Exhibit B), copy of which is attached to this list, will be made part of each lease issued to a successful applicant.

Appellant filed his oil and gas lease offer on July 24, 1972. All of the land applied for was acquired land under the jurisdiction of the Forest Service, but the Bureau inadvertently omitted the asterisk from the simultaneous filing list for the parcel for which appellant filed his application. Appellant's offer was drawn number one.

On October 16, 1972, the Bureau rendered its decision requiring appellant to consent to the inclusion of stipulations imposed by the Forest Service. The decision also stated that if this requirement was not met or an appeal not filed within 30 days from the receipt of the decision, the offer would be rejected.

Welch filed a timely appeal on October 20, 1972, in which he alleged that he chose the particular parcel on which to file applications because it was not marked by an asterisk. He also stated that any branch of the U.S. Government should be as good as its written word and that he therefore seeks to be relieved of the stipulations.

On October 27, 1972, the State Office issued a decision requiring appellant to sign and return standard "Surface Disturbance Stipulations" within 30 days from the receipt of the decision. This decision referred to the decision of October 16, 1972, and noted that an appeal to that decision had been filed. Appellant signed the Surface Disturbance Stipulations, which were filed with the Bureau on November 1, 1972. The Forest Service stipulations have not been filed.

The Mineral Leasing Act for Acquired Lands, 30 U.S.C. §§ 351-359 (1970), provides that an acquired lands lease may be issued only with the consent of the head of the agency having jurisdiction over such lands " \* \* \* subject to such conditions as that official may prescribe \* \* \* ." 30 U.S.C. § 352 (1970); 43 CFR 3109.3-1; Duncan Miller 5 IBLA 364 (1972). The Bureau has no authority to issue the lease free of the stipulations. Where an agency conditions its consent upon the execution of special stipulations by the lessee, the applicant must sign them or suffer rejection of his offer. Celia R. Kammerman, 66 I.D. 255 (1959); Duncan Miller, 1 IBLA 266 (1971). Strict adherence to the requirement that the applicant execute stipulations prescribed by the acquiring agency has been noted in the Board's decisions, even where the Board considers such stipulations unreasonable. Duncan Miller, 5 IBLA 364 (1972); See also Duncan Miller, 6 IBLA 216, 79 I.D. 416 (1972).

Appellant will be allowed 30 days from receipt of this decision to execute and file these stipulations in the Colorado State Office. Failure to file will result in rejection of the offer without further notice.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Edward W. Stuebing, Member

We concur:

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Newton Frishberg, Chairman

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Joseph W. Goss, Member

